

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

FUNCTION MEDIA, L.L.C.	§	
	§	
Plaintiffs,	§	Civil Action No. 2007-CV-279
	§	
vs.	§	
	§	
GOOGLE, INC. AND YAHOO, INC.	§	
	§	
Defendants.	§	JURY TRIAL DEMANDED

**NOTICE OF SUPPLEMENTAL AUTHORITY FOR FUNCTION MEDIA'S
MARKMAN BRIEFS**

On August 10, 2009, after claim construction briefing was complete, the United States District Court for the Eastern District of Texas (Davis, J.) issued an opinion that directly relates to the construction of the means plus function claim limitations that are before the Court. That opinion, which is attached hereto as Exhibit 1, is *IP Innovation, LLC v. Red Hat, Inc.*, 2009 WL 2460982 (E.D. Tex. Aug. 10, 2009).

The entire *IP Innovation* opinion discusses the question of indefiniteness. Pages *9 through *12, in particular, address the issue of indefiniteness as it relates to means plus function limitations and the proper application of the recent *Blackboard, Inc. v. Desire2Learn, Inc.* decision from the Federal Circuit. *IP Innovation* supports the arguments and authorities regarding indefiniteness in Function Media's Opening Claim Construction Brief (in particular, pages 4 to 19) and in Function Media's Reply Claim Construction Brief (in particular, pages 1 to 6 and pages 17 to 23).

Respectfully submitted,

/s/ Joseph S. Grinstein

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CERTIFICATE OF SERVICE

I hereby certify that on August 17, 2009, I electronically filed the foregoing document with the clerk of the court for the U.S. District Court, Eastern District of Texas, using the electronic filing system of the court. The electronic case filing system sent a "Notice of Electronic Filing" to the following attorneys of record who have consented in writing to accept this Notice as service of this document by electronic means:

/s/ Joseph S. Grinstein

Joseph S. Grinstein